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CHANDIGARH ADMINISTRATION  
LABOUR DEPARTMENT

## Notification

The 16th August 2023

**No. 13/1/9842-HII(2)-2023/11903.**—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 28/2022 dated 30.05.2023 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between:

1. MEWA SINGH, AGED 36 YEARS, SON OF SHRI UJJAGAR SINGH, RESIDENT OF VILLAGE BHANGANDI, PO MULLANPUR, TEHSIL KHARAR, DISTRICT MOHALI (PUNJAB) (WORKING AS MALI).
2. KULDEEP SINGH, AGED 35 YEARS, SON OF SHRI CHOTA SINGH, RESIDENT OF VILLAGE PARTCH, PO MULLANPUR, TEHSIL KHARAR, DISTRICT MOHALI (PUNJAB) (WORKING AS MALI)
3. SHAMSHER SINGH, AGED 45 YEARS, SON OF SHRI GANGA PARSHAD, RESIDENT OF HOUSE NO. 1339, DADUMAJRA COLONY, U.T., CHANDIGARH (WORKING AS SWEEPER).
4. GURMEET SINGH, AGED 44 YEARS, SON OF SHRI LAL SINGH, RESIDENT OF VILLAGE JHAMPUR, PO THIRA, TEHSIL AND DISTRICT MOHALI (PUNJAB) (WORKING AS MALI)
5. BHULLAR RAM, AGED 50 YEARS, SON OF SHRI GAYA DEEN, RESIDENT OF HOUSE NO. 1211, MOULI JAGRAN COMPLEX, U.T. CHANDIGARH (WORKING AS MALI)
6. RAJ KUMAR, AGED 44 YEARS SON OF SHRI JASWANT SINGH, RESIDENT OF HOUSE NO.784, KACHHI COLONY, DHARANS, U.T., CHANDIGARH (WORKING AS SWEEPER).

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7. SARWAN SINGH, AGED 56 YEARS, SON OF SHIR HARI SINGH, RESIDENT OF VILLAGE PAINTPUR, PO MULLANPUR, TEHSIL KHARAR, DISTRICT SAS NAGAR MOHALI (PUNJAB) (WORKING AS CHOWKIDAR). (Workemen)

AND

1. ADVISOR TO ADMINISTRATOR, U.T., FIRST FLOOR, SECRETARIAT U.T. SECTOR 9, CHANDIGARH.
2. DIRECTOR HIGHER EDUCATION, CHANDIGARH ADMINISTRATION, ADDITIONAL DELUXE BUILDING, SECTOR 9, CHANDIGARH.
3. PRINCIPAL, B-ED. COLLEGE, SECTOR 20-D, U.T. CHANDIGARH.
4. DIRECTOR GENERAL OF SUPPLIES AND DISPOSAL, R & IDTE (GeM), JEEVAN TARA BUILDING, 5 PARLIAMENT STREET, NEW DELHI.
5. PRINCIPAL SECRETARY, DEPARTMENT OF EDUCATION, SECRETARIAT U.T., SECTOR 9, CHANDIGARH.

M/S MOON LIGHT HOUSE KEEPING SERVICES, CO NO. 7, NEAR AJANTA HOMES GAZIPUR ROAD, ZIRAKPUR, TEHSIL DERA BASSI, DISTRICT MOHALI THROUGH ITS AUTHORISED SIGNATORY. (Management), referred to the said court by the Chandigarh Administration bearing Endorsement No. 13/1/9842-HII(2)-2021/4792 dated 31.03.2022.

#### AWARD

1. Vide Endorsement No.13/1/9842-HII(2)-2022/4792 Dated 31.03.2022 the Secretary Labour, Chandigarh Administration has referred the dispute to this Court / Tribunal on the demand notice dated 04.03.2020 raised by the Mewa Singh & 6 Others (*hereinafter in short referred "workmen"*) upon the Advisor to Administrator, U.T. Chandigarh & Others (*hereinafter in short referred "management"*) under Section 2(k) of the Industrial Disputes Act, 1947 (*hereinafter in short referred "ID Act"*) in following words:-

*"Whether the demand raised in the demand notice dated 04.03.2020 by Sh. Mewa Singh and 6 others (S/Sh. Kuldeep Singh, Shamsher Singh, Gurmeet Singh, Bhullar Ram, Raj Kumar) C/o R/o village Bhangandi, PO Mullanpur, Tehsil Kharar, District Mohali (Punjab) AND M/s Moonlight House Keeping Services, CO No.7 near Ajanta Homes, Gajipur Road, Zirakpur are genuine and justified. If so, to what effect and to what relief the Union/Workers are entitled to, if any ?"*

2. Upon notice, the workers' union appeared through its representative Shri R. S. Sathi. Statement of claim was filed on 03.08.2022. Briefly stated the facts of statement of claim are that the workmen are the employees of the management No.2 & 3 and working with the Management No.2 & 3 as Malies, Chowkidars, Aya, Game Boy and Sweepers for the last 3 to 14 years on DC Rates fixed by the Deputy Commissioner, Chandigarh from time to time. All the workmen have completed more than 240 days in a year and thus they are regular employees of the management No.2 & 3. The workmen are working on the sanctioned post with the management No. 2 & 3 and said posts are still in existence. The workmen have been working with the management No. 2 & 3 through various contractors for the last 3 to 14 years. Management No.2 & 3 are not registered with the Labour Department for outsourcing the services of the workmen and the contractors who remained with the management No.2 & 3 from the last 14 years were not having licence from the Labour Department, U.T, Chandigarh for engaging the workmen as per law, hence the workmen are the employees of the management No.2 & 3 as per requirement of law. Management No. 2 & 3 kept on changing the contractors as per their liking from time to time, but the workmen remained in the services of the management No.2 & 3 continuously from the date of their initial appointment till date. Management No.2 had issued a instructions/ circular No.DHE-UT-Ad.III-13(9) 2019 dated 10.10.2019 whereby it was specified for the appointment of staff on DC rates through outsourcing agencies in Education Department, U.T, Chandigarh for Group 'D' employees should possess the minimum qualification and experience as may be required for the post to be specified by the concerned Administrative Secretaries, the qualification can be relaxed in case of compassionate

appointments by Govt. having no option, the workmen have filed a Civil Suit which is pending adjudication before the Civil Judge, Senior Division, Chandigarh for 17.07.2022. Management No.4 issued guidelines for giving contract for outsourcing only through management No.4 without incorporating condition regarding not to terminate the services of earlier employees who have work for the last 3 to 14 years with the management No. 2 & 3. Thus, all the managements will terminate the services with the change of contractor through management No. 4, whereas, the valuable right has already accrued to the workmen and livelihood of their families and education of their children will be disturbed with the illegal termination of services of workmen. The workmen had raised following demands *vide* demand notice dated 25.02.2020:—

- i) To incorporate a condition in their tender notice regarding not to terminate the services of workmen who have already completed services 240 days in a year as per requirement of the Industrial Dispute, 1947.
- ii) Not to terminate the services of the workmen with the change of outsourcing agency contractor through management.
- iii) The change of agency may not illegally demand any money for employment and pay wages as per DC rate fixed by the U.T, Government Chandigarh.
- iv) The PF and ESI amount may also be regularly deposited with the concerned department and receipt of the same may be given to the workmen.

The workmen has filed a demand notice dated 25.02.2020 which was received in the office of Assistant Labour Commissioner-cum-Conciliation Officer, U.T, Chandigarh on 04.03.2020. However, Conciliation Officer did not issue notice to the management No.1, 2, 4 & 5 being higher authorities, whereas, actual powers vested in them and got added in the demand notice management No.6 contractor. It is further submitted that during the conciliation proceedings no amicable settlement was took place and ultimately Assistant Labour Commissioner-cum-Conciliation Officer forwarded the matter to the Secretary Labour, Chandigarh Administration, Labour Department, Chandigarh, who referred the matter in this court for adjudication *vide* Memo No.4791-4793 dated 31.03.2022. Hence, this claim statement is being filed.

3. It is submitted that the Director Higher Education *vide* Memo No.784/DHE-UT-C5-13(9)2019/4200 dated 01.11.2021 has written letter to the Principal, All Govt. Colleges, U.T, Chandigarh regarding retention of Group 'D' employees engaged on DC rates through outsourcing agencies, who were under matric and employed before 28.11.2017. But the management No.2 did not care for the same and terminated the services of workman No.2 Kuldeep Singh illegally for which demand notice has been served and the same is pending before the Conciliation Officer, Labour Department, U.T, Sector 30 Chandigarh, for 08.06.2022. Hence, the managements are not complying with its own policies issued *vide* 01.11.2021. A letter has been issued by the Chandigarh Administration, Finance Department, Chandigarh *vide* No.885 dated 25.10.2021 to all the Head of Departments to deployment of existing working / deployed resources (Manpower) having job satisfactory certificate will be continued by the successful service provider under the new contract also subject to their consent to the terms and conditions of the new contract and further prohibited from seeking deposits / security amount from the deployed resource or any other form on monetary acceptance by the service provider. Management No.6 in connivance with management No.3 on assignment of new contract charged ₹ 5,000/- to ₹ 7,000/- from each workman employed by him. The list of employees / workman was provided by management No.3 to management No.6, hence they are not abiding the instructions / orders issued by the Higher Authorities. Further, there is no condition in the tender / contract given to management No.6 that he will charge ₹ 5,000/- to ₹ 7,000/- from the workmen employed by him. Thus, he is violating the labour laws and conditions of tenders and orders issued by the Higher Authorities. Managements are extending the threats to the workman that in case the workmen raise any objection then they will be shunt-out and the managements are treating the workmen as their slaves. Hence, they are violating the provisions of Constitution and Labour

Laws by adopting unfair Labour Practices. The cause of action has accrued to the workmen on various occasions and lastly when the managements did not accepted the demands raised by the workmen and during the conciliation proceedings terminated the services of the one of the workmen illegally and unlawfully. The cause of action is still continuing one. No such or similar proceedings is pending before any court of law, except the present one. Prayer is made to incorporate a condition in the tender notice regarding not to terminate the services of workmen, who have already completed services 240 days in a year as per requirement of the ID Act; not to terminate the services of the workmen with the change of outsourcing agency / contractor through managements; change of agency may not illegally demand any money for employment and pay wages as per DC rates fixed by the U.T, Government Chandigarh; PF and ESI amount may also be regularly deposited with the concerned department and receipt of the same may be given to the workmen; illegally charged amount of ₹ 5,000/- to ₹ 7,000/- by the management No.6 from the workmen may be refunded to them along with interest 18% from the date of receipt from workmen till realization; orders and policies issued by the Higher Officers / Authorities may be strictly implemented; the principal of equal pay and equal wages may be adopted as per law settled by the Hon'ble Apex Court.

4. On notice, management No.1 to 3 & 5 appeared through its Law Officer and contested the claim of the workmen by filing joint written statement on 25.11.2022, wherein preliminary objections are raised on the ground that the workman is guilty of misrepresenting the facts and of *supprescio very* and *expresciofalsi* to the extent that the workman has completely misconceived, suppressed true and material facts in the present demand notice and as such has approached this Hon'ble Court with unclean hands and thus the claim petition deserves to be dismissed on this ground alone. Initially permission was granted to Government College of Education, Sector 20-D, Chandigarh to engage 5 posts of *Mali* (Gardner) / *Beldar* (Groundman) for the session 2019-20 on contract basis through service provider out of wages / relevant funds vide Order No.DHE-UT-C5-12(05)2007-IV dated 10.06.2019 of Office of Director, Higher Education, Chandigarh Administration. Further, M/s. Moonlight Housekeeping Services (SCO 7, First Floor, Avanta Home Society, Zirakpur, Distt. Mohali, Punjab) vide Ref. No. MHS/19/0017 dated 01.03.2019 provided the list of 5 *Malis* to be deployed w.e.f. 01.03.2019 as per GeM Sanction No. 511687757458982 dated 20.02.2019 at Govt. College of Education, Sector 20-D, Chandigarh. For the session 2020-21 w.e.f. 01.11.2020, permission was granted to engage 3 *Mali* / *Beldar* on contract basis through service provider out of wages head vide Order No. DHE-UT-C5-12(5)07-IV dated 29.10.2020 of Office of Director, Higher Education, Chandigarh Administration. Accordingly, M/s Moonlight Housekeeping Services (SCO 7, First Floor, Avanta home society, Zirakpur, Distt. Mohali, Punjab) vide Ref. No.MHS/20/178 dated 30.10.2020 provided the list of 3 *Malis* to be continued w.e.f. 01.11.2020 (session 2020-21) at Govt. College of Education, Sector 20-D, Chandigarh. The workman No. 7 resigned from his post on 01.09.2022, workman No. 1, 3, 4, 5 & 6 are still working on the outsourced posts with the management No. 2 and 3, and the services of the workman No. 2 were discontinued w.e.f. 01.11.2020. The present statement of claim is not maintainable and liable to be dismissed on the ground that the workman has no *locus standi* and cause of action to file the present statement of claim as the terms and conditions of his appointment was very clear. The Order No.DHE-UT-C5-12(05)2007-IV dated 10.06.2019 of Office of Director, Higher Education, Chandigarh Administration, provides that "Provisional permission is hereby granted to the following heads of Institutions to keep/engage following manpower on contract basis through service provider out of wages/relevant funds for the session 2019-20 or till the services are required, whichever is earlier on DC roles plus contribution towards EPF and ESI on the stipulation that the amount which is to be disbursed by the service provider at the rates fixed by DC minus EPF contributions of employee shall be made by way of cheque." The workmen have themselves admitted in the para No. 5 that the Civil Suit is pending on the issue of appointment of staff on DC rates through outsourcing agencies in Education Department, U.T., Chandigarh. Therefore, the present claim petition is not maintainable in its present form and deserves to be dismissed on this ground only. The recruitment is a continuous process and the interested workman can apply for recruitment to the vacant posts through outsourcing agency as per law.



5. On merits, it is pleaded that the workman No. 2 was appointed as Mali for the period 16.03.2018 to February 2019 outsourced through the independent agency namely M/s A to Z Services (Shop No. 123/2, Sector 41-D, Badheri, Chandigarh) and March, 2019 to 31.10.2020 through independent agency namely M/s Moonlight Housekeeping Services (SCO 7, First Floor, Avanta Home Society, Zirakpur, Distt. Mohali, Punjab). The workmen were employee of independent agencies and have been serving in the Office of answering management No. 3. It is matter of record that all the workmen have completed more than 240 days in a year. The workman No. 1, 3, 4, 5 and 6 are still working on the outsourced posts with the management No. 2 and 3. The recruitment is a continuous process and the interested workman can apply for recruitment to the vacant posts through outsourcing agency as per law. The Contractors have been engaged in the office of answering management as per law and rules applicable from time to time. Issuance of instruction / circular dated 10.10.2019 is a matter of record. The workmen have themselves that the Civil Suit is pending on the same issue. Therefore, the present claim petition is not maintainable in its present form and deserves to be dismissed on this ground only. No services of the workman have been terminated on the ground of change of contractor. Following condition has been incorporated in the GeM Bid document dated 18.05.2022 (Additional T&C Sr. No. 25):

*"Successful service provider has to continue the existing working/deployed resources (manpower) of the Education Department having job satisfactory certificate, under the new contract subject to their consent to the terms and conditions of the new contract concluded on the basis of this bid."*

It is a matter of record that the workmen has filed a demand notice dated 25.02.2020 and during the conciliation proceedings no amicable settlement was took place and ultimately Assistant Labour Commissioner-cum-Conciliation Officer forwarded the matter to the Secretary Labour, Chandigarh Administration, Labour Department, Chandigarh, who referred the matter in this court for adjudication vide Memo No.4791-4793 dated 31.03.2022. Hence, this claim statement is being filed. It is submitted that the services of workman No. 2 Kuldeep Singh, Ex-Mali (on contract basis DC rates) have been discontinued in view of DHE, Chd. Admn. vide Memo No.DHE-UT-C5- 12(5)07-IV dated 29.10.2020. The services of Kuldeep Singh, Ex-Mali had been discontinued by the service provider w.e.f. 01.11.2020 as only 3 posts of Mali had been permitted for continuation w.e.f. 01.11.2020 for the session 2020-21 and manpower had been engaged on the principle of 'last come first go' on their respective posts. Remaining averments of the case of the workmen are denied. Prayer is made that the present statement of claim may kindly be dismissed in the interest of justice.

6. Management No.4 appeared through its authorized representative and contested the claim of the workman by filing written statement on 10.11.2022, wherein it is stated that the workmen have not made any prayer against the answering management and therefore, the answering management craves liberty to this Court to file a short affidavit for the limited purpose of bringing on record some important and relevant facts. The non-reply of the averments made by the applicants para-wise in *seriatim* shall not be construed as an admission on the part of the answering management. The answering management also reserves to itself the rights to file a detailed affidavit, if so required, after seeking prior permission from this Hon'ble Court. It is submitted that management No.4, Government e-Marketplace (*here-in-after referred to as "GeM"*) is a National Public Procurement Portal-an end to end online market for Central and State Government Ministries/ Departments, Central and State Public Sector Undertaking (CPSUs and SPSUs), Autonomous institutions and Local Bodies for procurement of common use goods and services (the Buyers). The portal is owned and managed by GeM SPV which is Section 8 (non-profit) Company registered under the Company Act 2013. The GeM portal has been established by the Government of India to facilitate procurement by various governmental entities, in a transparent and efficient manner. GeM only facilitate transactions between Buyers and Sellers. The buyers have the liberty to incorporate such conditions in the bid document as they deem necessary. However, to facilitate creation of Bid document by the Buyers, the GeM has created certain templates which

can be suitably modified by the Buyers by incorporating additional conditions. Management No.4 has not issued guidelines regarding non-termination of services of employees who have worked for last 3 to 14 years. The answering management has neither the power nor the authority to lay such conditions and make them binding on the government Buyers. It is the Buyers' absolute prerogative to include such conditions as they deem fit and proper. The GeM only lays down templates of bid conditions from which the Buyer may pick and choose depending upon its requirements. Other paras of the petition/claim statement do not pertain to the answering management and are, therefore, denied for want of knowledge. Prayer is made that the present case may be dismissed against the answering management.

7. The workman filed separate replication to written statement filed by management No.1 to 3 & 5 and management No.4, wherein the contents of written statements are denied as wrong except the admitted facts of the claim and the averments of the statement of claim are reiterated.

8. From the pleadings of the parties, following issues were framed vide order dated 19.01.2023:—

1. Whether the demand raised in the demand notice dated 04.03.2020 by the workers' union are genuine and justified, if so, to what effect and to what relief the workers' union/workmen is entitled to, if any ? OPW
2. Whether the present statement of claim is not maintainable ? OPM (Management No.1 to 3 & 5)
3. Whether the workmen have no *locus-standi* and no cause of action ? OPM (Management No.1 to 3 and 5)
4. Relief.

9. During the pendency of the present industrial dispute, Learned Representative for the workmen on 30.05.2023 suffered a statement, which is reproduced as below:-

*"The management had assured to comply with the instructions bearing No.19/C2/2021/PEO(GeM)/885 dated 25.10.2021 issued by the Finance Secretary, Chandigarh Administration and Memo No.784-DHE-UT-C5-13(9)2019/4200 dated 01.11.2021 issued by Director Higher Education, Chandigarh and the Kuldeep Singh, workman has been reinstated vide letter bearing Reference No.Siddhi/2023-24/180 dated 20.05.2023 by Sidhhi Vinayak (new outsource agency).Copies of the same are Mark 'A' to 'C'. In view of the above, I do not want to pursue with the present industrial dispute reference with a liberty to file a fresh, if need arises. The same may kindly be disposed off accordingly."*

10. Heard. In view of the above statement of Learned Representative for the workmen, the present industrial dispute reference is disposed off being not pressed with a liberty to file afresh, as prayed for. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . . ,

(JAGDEEP KAUR VIRK),  
PRESIDING OFFICER,

Industrial Tribunal & Labour Court,  
Union Territory, Chandigarh.  
UID No. PB0152.

Dated : 30.05.2023.

Secretary Labour,  
Chandigarh Administration.

## HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**Notification**

The 29th August, 2023

**No. 116/E.I/V.B(3E).**—Hon'ble the Chief Justice has been pleased to accept the resignation submitted by Ms. Savita Kadian, Secretary from the post of Secretary w.e.f 24-07-2023 after considering her request dated 24-07-2023 by depositing one month's salary in lieu of notice period as per condition of her appointment letter.

(Sd.)...,

(NARENDER SINGH),  
Registrar (Administration),  
for Registrar General.

**CHANGE OF NAME**

I, Pooja Khanna, D/o Kamal Kumar Pahwa & W/o Varun Jagotta, R/o # 128, Sector 21-A, Chandigarh, have changed my name after marriage to Pooja Pahwa Jagotta.

[1045-1]

I, Jasbeer Kaur, W/o Gurnam Singh, # 1, Type 3, Water Works Colony, Sector 39, Chandigarh, have changed my name to Jasvir Kaur and my D.O.B. 01/05/1969.

[1046-1]

I, Satpal Singh, S/o Late Shri Sube Singh, R/o 548B, Police Line, Sector-26, Chandigarh, have changed my minor son's name from Kartik to Kartik Kodan.

[1047-1]

I, Richa, W/o Dinesh Badhan, # 125, Village Dadu Majra, Chandigarh, have changed my name Richa Badhan.

[1048-1]

I, Ishan, S/o Sh. Mangat Ram, R/o H. No. 2656, Sector 37-C, Chandigarh, have changed my name to Ishan Sharma.

[1049-1]

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